



CBS

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July 31, 2008

Via Overnight Courier

Federal Communications Commission
U.S. Bank – Government Lockbox #979088
SL-MO-C2-GL
1005 Convention Plaza
St. Louis, MO 63101

Re: KTVT(TV), Fort Worth, Texas
Facility I.D. No. 23422
NAL/Acct. No. 0841420053
FRN: 0001767078

Dear Sir or Madam:

Enclosed please find a check for Ten Thousand Dollars (\$10,000) in connection with the above-captioned Notice of Apparent Liability.

If you have any questions, please contact the undersigned. Thank you.

Very truly yours,

M.P. Messinger

MPM:iag
Enclosure
#68291

cc: Anne Lucey
Howard Jaeckel, Esq.
Steve Mauldin
KTVT(TV) Public File (Ken Foote)

CBS Television Stations

524 West 57th Street
New York, NY 10019

FEDERAL COMMUNICATION COMMISSION
PO. BOX 979088
ST. LOUIS, MO 63197

Page 1 of 1

PAYMENT SUMMARY

Check Date: July 28, 2008
Check No.: 1901003072

Vendor Name: FEDERAL COMMUNICATION COMMISSI
Vendor No.: 57669

| Invoice No. | Invoice Date | Description | Discount | Net Amount |
|-------------|--------------|--------------------------------|----------|------------|
| 0721FCC | 21-JUL-08 | CTSHQ- 0721FCC, KTVT VIOLATION | 0.00 | 10,000.00 |

NAL/Acct. No. 0841420053
FRN: 0001767078

TOTAL: \$10,000.00

DOCUMENT CONTAINS ANTI-COPY VOID PANTOGRAPH, MICRO PRINT BORDER, VERIFICATION BOX (TO RIGHT OF ARROW, HOLD BETWEEN THUMB AND FOREFINGER, OR BREATHE ON IT, COLOR WILL DISAPPEAR, THEN REAPPEAR), AND A SIMULATED WATERMARK ON THE BACK

CBS Television Stations

524 West 57th Street
New York, NY 10019

60-160/433

Check Date

July 28, 2008

Check Number

1901003072

PAY Ten thousand and 00/100 Dollars

TO
THE
ORDER
OF


FEDERAL COMMUNICATION COMMISSION
PO. BOX 979088
ST. LOUIS, MO 63197

VALID FOR 90 DAYS

*****\$10,000.00

NAL/Acct. No. 0841420053
FRN: 0001767078

BNY Mellon, N.A.
Pittsburgh, PA


Vice President & Treasurer 035

⑈ 1901003072 ⑈ ⑆043301601⑆ 005⑈6581⑈

Before the
Federal Communications Commission
Washington, D.C. 20554

| | | |
|----------------------------------|---|--------------------------|
| In the Matter of |) | |
| |) | |
| CBS Stations Group of Texas L.P. |) | Facility I.D. No. 23422 |
| Licensee of Station KTVT(TV) |) | NAL/Acct. No. 0841420053 |
| Fort Worth, Texas |) | FRN: 0001767078 |

**NOTICE OF APPARENT
LIABILITY FOR FORFEITURE**

Adopted: July 16, 2008

Released: July 21, 2008

By the Chief, Video Division, Media Bureau:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture* ("NAL") issued pursuant to Section 503(b) of the Communications Act of 1934, as amended (the "Act"), and Section 1.80 of the Commission's Rules (the "Rules"),¹ by the Chief, Video Division, Media Bureau pursuant to authority delegated under Section 0.283 of the Rules,² we find that CBS Stations Group of Texas L.P. (the "Licensee"), licensee of Station KTVT(TV), Fort Worth, Texas (the "Station"), apparently willfully and repeatedly violated Section 73.3526(e)(11)(i)-(iii) of the Rules, by failing to place in the Station's public inspection file all required TV issues/programs lists, records concerning its compliance with the children's programming commercial limits, and Children's Television Programming Reports.³ Based upon our review of the facts and circumstances before us, we conclude that the Licensee is apparently liable for a monetary forfeiture in the amount of ten thousand dollars (\$10,000).

II. BACKGROUND

2. Section 73.3526 of the Rules requires a commercial broadcast licensee to maintain a public inspection file containing specific types of information related to station operations.⁴ Subsection 73.3526(e)(11)(i) provides that a TV issues/programs list is to be placed in a commercial TV broadcast station's public inspection file each calendar quarter. In addition, pursuant to subsection 73.3526(e)(11)(ii), each commercial television broadcast station is required to place in its public inspection file, on a quarterly basis, records sufficient to allow substantiation of the licensee's certification, in its renewal application, of its compliance with the children's television commercial limits imposed by Section 73.670 of the Rules.⁵ Moreover, as set forth in subsection 73.3526(e)(11)(iii), each commercial television licensee is required to prepare and place in its public inspection file a Children's Television Programming Report (FCC Form 398) for each calendar quarter reflecting, *inter alia*, the

¹ 47 U.S.C. § 503(b); 47 C.F.R. § 1.80.

² See 47 C.F.R. § 0.283.

³ See 47 C.F.R. § 73.3526(e)(11)(i)-(iii).

⁴ See 47 C.F.R. § 73.3526.

⁵ 47 C.F.R. § 73.670. This rule limits the amount of commercial matter that a commercial television station may air during children's programming to 10.5 minutes per hour on weekends and 12 minutes on weekdays.

efforts that it has made during the quarter to serve the educational and informational needs of children. These subsections of Section 73.3526 require licensees to place TV issues/programs lists, records concerning commercial limits and Children's Television Programming Reports for each quarter in the station's public inspection file by the tenth day of the succeeding calendar quarter. Where lapses occur in maintaining the public file, neither the negligent acts nor omissions of station employees or agents, nor the subsequent remedial actions undertaken by the licensee, excuse or nullify the licensee's rule violation.⁶

3. On April 3, 2006, the Licensee filed its license renewal application (FCC Form 303-S) for Station KTVT(TV) (the "Application") (File No. BRCT-20060403BLK). In response to Section IV, Question 3 of the Application, the Licensee stated that, during the previous license term, it had failed to timely place in its public inspection file all of the documentation required by Section 73.3526 of the Commission's Rules. In Exhibit 17, the Licensee indicated that a review of the Station's public inspection file revealed that several documents were missing.⁷ Specifically, it reported that its Children's Television Programming Reports and TV issues/programs lists for the fourth quarter of 1999 through the fourth quarter of 2000 were missing from the public file. In addition, the Licensee stated that the portion of the TV issues/programs list dealing with programming broadcast locally by the Station was not in the file for the first quarter of 2003. Further, the Licensee indicated that records concerning its compliance with the children's programming commercial limits for the fourth quarter of 1999 through the third quarter of 2000 were missing from the file.⁸

III. DISCUSSION

4. The Licensee's failure to place in its Station KTVT(TV) public inspection file all of the required documentation constitutes apparent willful and repeated violations of Sections 73.3526(e)(11)(i), 73.3526(e)(11)(ii), and 73.3526(e)(11)(iii) of the Rules. This *NAL* is issued pursuant to Section 503(b)(1)(B) of the Act. Under that provision, any person who is determined by the Commission to have willfully or repeatedly failed to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the United States for a forfeiture penalty.⁹ Section 312(f)(1) of the Act defines willful as "the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate" the law.¹⁰ The legislative history to Section 312(f)(1) of the Act clarifies that this definition of willful applies to both Sections 312 and 503(b) of the Act,¹¹ and the Commission has so interpreted the term in the Section 503(b) context.¹² Section 312(f)(2) of the Act provides that "[t]he term 'repeated,' when used with reference to the commission or omission of any act,

⁶ See *Padre Serra Communications, Inc.*, 14 FCC Rcd 9709 (1999) (citing *Gaffney Broadcasting, Inc.*, 23 FCC 2d 912, 913 (1970) and *Eleven Ten Broadcasting Corp.*, 33 FCC 706 (1962)); *Surrey Range Limited Partnership*, 71 RR 2d 882 (FOB 1992).

⁷ On August 3, 1999, the Commission granted an application to transfer control of the licensee of Station KTVT(TV) from Gaylord Entertainment Company to Viacom Inc. (BTCCT-19990503IB). That transfer of control was consummated on October 12, 1999.

⁸ The Licensee reported that from the fourth quarter of 1999 through the third quarter of 2000, the only children's programming broadcast by the Station was provided by the CBS Television Network. The Licensee claimed that since that programming was formatted by the Network to comply with the children's programming commercial limits, and since there were no spots in or adjacent to the programs for local sale, it believes that the Station was in compliance with the children's programming commercial limits at all times.

⁹ 47 U.S.C. § 503(b)(1)(B); see also 47 C.F.R. § 1.80(a)(1).

¹⁰ 47 U.S.C. § 312(f)(1).

¹¹ See H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982).

¹² See *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991).